

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:

THE KRYSTAL COMPANY, *et al.*,

Debtors.

Chapter 11

Case No. 20-61065 (PWB)

(Jointly Administered)

OBJECTION OF AR GLOBAL LANDLORDS TO CURE AMOUNTS

The AR Global Landlords¹ (collectively, the “AR Global Landlords”), by and through counsel, hereby files this objection to the cure amounts (the “Objection”) regarding the Debtors’ cure proposed in the Notice to Contract Parties of Potentially Assumed Executory Contracts and Unexpired Leases [Docket No. 310] (the “Cure Notice”), and respectfully represents as follows:

PROCEDURAL BACKGROUND

1. The Krystal Company and its affiliated co-debtors (the “Debtors”) filed their voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code on January 19, 2020 (the “Petition Date”).
2. On April 7, 2020, the Debtors filed the Cure Notice.
3. The AR Global Landlords are the landlords for certain properties listed in the Cure Notice, namely the properties identified as Store CHN009/CHNF06, Store COL006 and Store JAX015.

¹ The AR Global Landlords include ARC DB5PROP001, LLC (lessor of property at 6009 New Kings Road, Jacksonville, Florida (the “Jacksonville Property”) and ARC DB5PROP001, LLC (lessor of property at 621 Signal Mountain Road, Chattanooga, Tennessee (the “Chattanooga Property”) and 250 Lafayette Road, Fort Oglethorpe, Georgia (the “Fort Oglethorpe Property”).

GROUND FOR OBJECTION

4. The AR Global Landlords object to the proposed cure amounts contained in the Cure Notice for the properties identified as Store CHN009/CHNF06, Store COL006 and Store JAX015.

5. The amounts outstanding under the Lease as of April 27, 2020 are as follows:

Store Number	Proposed Cure Amount	Lease Cure Amount	Attorneys' Fees	Total Cure Amount
Store JAX015	\$21,800.38	\$31,489.67	\$3,000	\$34,489.67
Store CHN009/CHNF06	\$18,569.44	\$27,854.16	\$3,000	\$30,854.16
Store COL006	\$20,317.44	\$30,476.16	\$3,000	\$33,476.16

6. The AR Global Landlords object to the assumption of the leases of these properties absent payment of all cure amounts owed thereunder through the effective date of assumption, including any amounts that will become due or be invoiced on or after April 27, 2020 (including, but not limited to, real estate taxes and insurance), as well as attorneys' fees and costs.

7. 11 U.S.C. § 365(b) provides that:

(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary

losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

8. Section 365(b)(1) includes compensation to landlords for sums incurred for attorneys' fees and expenses. The leases provide for the recovery of the AR Global Landlords' attorneys' fees and expenses.

RESERVATION OF RIGHTS

9. The AR Global Landlords reserve the right to make such other and further objections as may be appropriate, including, but not limited to, objections regarding adequate assurance of future performance under Section 365. The AR Global Landlords further reserve the right to file administrative expense claims, general unsecured claims, and any other claims against the Debtors' bankruptcy estates.

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CONCLUSION

10. For the reasons set forth above, the AR Global Landlords respectfully request that the Court (i) sustain this Objection; (ii) require that any order authorizing the assumption of the Leases affirmatively require the Debtors to pay all amounts owing thereunder through the effective date of any assumption, including attorneys' fees and expenses; and (c) grant such further relief as it deems proper.

Dated: April 27, 2020

GREENBERG TRAURIG, LLP

/s/ John D. Elrod

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that I have this date served the foregoing pleading by causing true and correct copies of the same to be filed electronically using the Court's ECF filing system, which will result in electronic notice to the Debtors and all parties filing appearances in the bankruptcy cases, including to the following:

Jeff Dutson, Esq. – counsel to the Debtors – jdutson@kslaw.com

Dated this 27th day of April, 2020.

/s/ John D. Elrod
John D. Elrod